

APR 03 2006

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

RAD REFERRAL: 05L-18

DATE REFERRED: May 17, 2005

DATE ACTIVATED: February 27, 2006

STATUTE OF LIMITATIONS: May 17, 2009

SOURCE: RAD REFERRAL

RESPONDENTS: American Society of Anesthesiologists PAC and Richard Barwacz,
in his official capacity as Treasurer

**RELEVANT STATUTES
AND REGULATIONS:** 2 U.S.C. § 434(g)(2)(A)
11 C.F.R. § 104.4(b)(2)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter was generated by a Reports Analysis Division ("RAD") referral of the American Society of Anesthesiologists Political Action Committee and Richard Barwacz, in his official capacity as Treasurer (the "Committee"), to this Office for potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). According to the RAD Referral, the Committee failed to file three 48-Hour Notices relating to three independent expenditures totaling \$245,600.

According to the Committee's disclosure reports, the Committee made three independent expenditures, which aggregated at least \$10,000 or more, between January 1, 2004 and the 20th day prior to the 2004 Congressional Primary Elections held in Georgia, Nevada, and Washington. The Committee disclosed these expenditures in its 2004 May, August and September Monthly Reports

1 but did not file 48-Hour Notices. Under 2 U.S.C. § 434(g)(2)(A), a political committee that makes
2 an independent expenditure “aggregating \$10,000 or more at any time up to and including the 20th
3 day before the date of an election shall file a report describing the expenditures within 48 hours.”
4 *Id.*; *see also*, 11 C.F.R. § 104.4(b)(2). In response to Requests for Additional Information
5 (“RFAI”) noting the Committee’s failure to file the required 48-Hour Notices, the Committee
6 admitted to these omissions and stated that it has taken action to rectify “internal problems” relating
7 to the reporting of independent expenditures. Miscellaneous Submissions, filed November 1, 2004
8 and January 11, 2005.

9 Based upon a review of the RAD Referral and available information, this Office
10 recommends that the Commission: 1) open a Matter Under Review; 2) find reason to believe that
11 the Committee violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2) by failing to file 48
12 Hour-Notices relating to independent expenditures; and 3)

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14 **II. DISCUSSION OF CONCILIATION AND CIVIL PENALTY**
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III. RECOMMENDATIONS


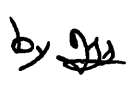
1. Open a MUR in RR 05L-18;
2. Find reason to believe the American Society of Anesthesiologists PAC and Richard Barwacz, in his official capacity as Treasurer, violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2);
- 3.
4. Approve the attached Factual and Legal Analysis;
5. Approve the appropriate letter.

Lawrence H. Norton
General Counsel

Date: 11/5/08

By: 

Rhonda J. Vosdingh
Associate General Counsel

 by 
Ann Marie Terzaken
Assistant General Counsel


Jin Lee
Attorney

Attachments:

- 1.
2. Factual and Legal Analysis

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